

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

INTERFOOD HOLDING, B.V.,)	
)	
Plaintiff,)	
)	
vs.)	No. 4:08CV85-DJS
)	
LARRY RICE, MICHAEL HUSMANN, and)	
DF INGREDIENTS, INC.,)	
)	
Defendants.)	

ORDER

The Court previously set a non-jury hearing of the sole remaining claim in this case, Count III of plaintiff's first amended complaint as against defendant Rice to the extent it seeks a permanent injunction. Plaintiff now files a motion seeking reconsideration of the Court's pivotal determination with respect to summary judgment on Counts II and IV that INTERFOOD is not inherently distinctive. The lateness of the motion is attributed to the recency of the action by the United States Patent & Trademark Office which underlies the motion, and that action appears to warrant reexamination of the Court's earlier determinations adverse to plaintiff and in favor of defendants on plaintiff's claims for trademark infringement and unfair competition.

The November 10, 2009 setting of the permanent injunction hearing, intended to fully dispose of the case, cannot be maintained in view of the time required for full briefing of the issues

raised by plaintiff's motion, for the Court's reasoned consideration of those issues, and for a determination of the impact on the scope of the claims remaining for disposition. Accordingly,

IT IS HEREBY ORDERED that the Court's order of September 29, 2009 setting a permanent injunction hearing for November 10, 2009 [Doc. #174] is vacated, and the hearing is cancelled.

IT IS FURTHER ORDERED that defendants shall file their memoranda in response to plaintiffs' motion to reconsider the issue of inherent distinctiveness no later than November 12, 2009, and plaintiff shall file any reply no later than November 24, 2009.

Dated this 22nd day of October, 2009.

/s/Donald J. Stohr
UNITED STATES DISTRICT JUDGE